LBR 7003-1. ADVERSARY PROCEEDING SHEET

A complaint, filed electronically or non-electronically, must be accompanied by an Official Form B104, Adversary Proceeding Sheet, completed and signed by the attorney or party presenting the complaint. The form must contain the name, address, and telephone number of each party to the adversary proceeding, together with the name, address, and telephone number of each party's attorney, if known.

LBR 7004-1. ISSUANCE AND SERVICE OF SUMMONS AND NOTICE OF STATUS CONFERENCE

(a) Presentation for Issuance. The attorney or party must prepare a Summons and Notice of Status Conference for execution by the clerk, using court-mandated form F 7004-1.SUMMONS for adversary proceedings or F 1010-1.1.SUMMONS for involuntary petitions. The summons must be presented concurrently with the filing of a complaint or of an involuntary petition pursuant to 11 U.S.C. § 303.

(**b) Manner of Service.** A summons must be served in the manner authorized in FRBP 7004. If a summons or any paper is served by mail, the mailing address must include the zip code. The notice required by FRBP 7026 and LBR 7026-1 must be served with the summons and complaint.

(c) Exception – Statute of Limitations. If the statute of limitations applicable to any claim in a complaint will expire before the summons can be prepared and submitted, the complaint will be accepted by the clerk for filing without a summons. The summons must be presented for issuance within 2 days after the complaint is filed under this exception.

LBR 7004-2. LIMITATIONS ON SERVICE BY MARSHAL

(a) General. Except as otherwise provided by order of the court or when required by the treaties or statutes of the United States, civil process on behalf of a non-governmental party must not be presented to the United States Marshal for service.

(b) Exception. Upon request by the government, civil process on behalf of the United States government or an officer or agency thereof may be made by the United States Marshal.

LBR 7008-1. CORE/NON-CORE DESIGNATION

In all adversary proceedings, the statements required by FRBP 7008(a) and 7012(b) must be plainly stated in the first numbered paragraph of the paper.

LBR 7015-1. AMENDED AND SUPPLEMENTAL PLEADINGS

(a) Form.

(1) An original and 1 copy of the proposed amended pleading must be lodged as a separate document and served with any notice of motion or stipulation to amend a pleading.

(2) Every amended pleading filed as a matter of right or allowed by order of the court must be complete, including exhibits. The amended pleading must not incorporate by reference any part of the prior superseded pleading.

(3) Unless otherwise ordered, a pleading will not be deemed amended absent compliance with this rule and FRBP 7015.

(b) Service of Allowed Amended Pleading.

(1) Unless otherwise ordered, an amended pleading allowed by order of the court will be deemed served upon the parties who have previously appeared on the date the motion to amend is granted or the stipulation therefor is approved, provided the proposed amended pleading was lodged and served in accordance with subsection (a)(1). Otherwise, actual service and filing of the amended pleading is required.

(2) A party who has not previously appeared must be served with an amended pleading as provided in LBR 2002-2 and 7004-1.

LBR 7016-1. STATUS CONFERENCE, PRETRIAL, AND TRIAL PROCEDURE

(a) Status Conference. In any adversary proceeding, the clerk will issue a summons and notice of the date and time of the status conference.

(1) Who Must Appear. Each party appearing at any status conference must be represented by either the attorney (or party, if not represented by counsel) who is responsible for trying the case or the attorney who is responsible for preparing the case for trial.

(2) Contents of Joint Status Report. Unless otherwise ordered by the court, at least 14 days before the date set for each status conference the parties are required to file a joint status report discussing the following:

(A) State of discovery, including a description of completed discovery and detailed schedule of all further discovery then contemplated;

(B) A discovery cut-off date;

(C) A schedule of then contemplated law and motion matters;

(D) Prospects for settlement;

(E) A proposed date for the pretrial conference and/or the trial;

(F) Whether counsel have met and conferred in compliance with LBR 7026-1, and if so, the date of the conference;

(G) Any other issues affecting the status or management of the case; and

(H) Whether the parties are interested in alternative dispute resolution.

(3) Unilateral Status Report. If any party fails to cooperate in the preparation of a joint status report and a response has been filed to the complaint, each party must file a unilateral status report not less than 7 days before the date set for each status conference, unless otherwise ordered by the court. The unilateral status report must contain a declaration setting forth the attempts made by the party to contact or obtain the cooperation of the non-complying party.

(4) Scheduling Order. Unless otherwise ordered by the court, within 7 days after the status conference the plaintiff must lodge, in accordance with LBR 9021-1(b), a proposed scheduling order setting forth the following:

(A) Deadline to join other parties and to amend the pleadings;

(B) Deadline to complete discovery;

(C) Deadline to file any pretrial motions and/or a joint pretrial order;

(D) Any dates set for further status conferences, a final pretrial conference, and the trial;

(E) Any other appropriate matter; and

(F) Proof of service on all opposing counsel (or parties, if not represented by counsel).

(5) Stipulation for Extension of Deadlines in Scheduling Order. A stipulation for extension of the deadlines set forth in a previously entered scheduling order must contain facts establishing cause for the requested extension and be submitted to the court in accordance with LBR 9021-1(b)(2) and LBR 9071-1.

(b) Joint Pretrial Order.

(1) When Required.

(A) In any adversary proceeding or contested matter, unless otherwise ordered by the court, attorneys for the parties must prepare and lodge, in accordance with LBR 9021-1(b), a written joint pretrial order approved by counsel for all parties.

(B) Unless otherwise ordered by the court, the joint pretrial order must be lodged and served not less than 14 days before the date set for the trial or pretrial conference, if one is ordered.

(C) The preparation and filing of the pretrial order is the responsibility of the parties' counsel (or parties, if not represented by counsel). All parties must meet and confer at least 28 days before the date set for trial or pretrial conference, if one is ordered, for the purpose of preparing the pretrial order.

(2) Contents of Pretrial Order. Unless the court orders otherwise, a joint pretrial order must include the following statements in the following order:

(A) "The following facts are admitted and require no proof:" (Set forth a concise statement of each.)

(B) "The following issues of fact, and no others, remain to be litigated:" (Set forth a concise statement of each.)

(C) "The following issues of law, and no others, remain to be litigated:" (Set forth a concise statement of each.)

(D) "Attached is a list of exhibits intended to be offered at the trial by each party, other than exhibits to be used for impeachment only. The parties have exchanged copies of all exhibits." (Attach a list of exhibits in the sequence to be offered, with a description of each, sufficient for identification, and as to each state whether or not there is objection to its admissibility in evidence and the nature thereof.) If deposition testimony is to be offered as part of the evidence, the offering party must comply with LBR 7030-1.

(E) "The parties have exchanged a list of witnesses to be called at trial." The parties must exchange a list of names and addresses of witnesses, including expert witnesses, to be called at trial other than those contemplated to be used for impeachment or rebuttal. The lists of witnesses must be attached to the proposed joint pretrial order together with a concise summary of the subject of their proposed testimony. If an expert witness is to be called at trial, the parties must exchange short narrative statements of the qualifications of the expert and the testimony expected to be elicited at trial. If the expert to be called at trial has prepared a report, the report must be exchanged as well.

(F) "Other matters that might affect the trial such as anticipated motions in limine, motions to withdraw reference due to timely jury trial demand pursuant to LBR 9015-2, or other pretrial motions."

(G) "All discovery is complete."

(H) "The parties are ready for trial."

(I) "The estimated length of trial is _____."

(J) "The foregoing admissions have been made by the parties, and the parties have specified the foregoing issues of fact and law remaining to be litigated. Therefore, this order supersedes the pleadings and governs the course of trial of this cause, unless modified to prevent manifest injustice."

(c) Plaintiff's Duty.

(1) It is plaintiff's duty to prepare and sign a proposed joint pretrial order that is complete in all respects except for other parties' lists of exhibits and witnesses.

(2) Unless otherwise ordered by the court, plaintiff must serve the proposed joint pretrial order in such manner so that it will actually be received by the office of counsel for all other parties not later than 4:00 p.m. on the 7th day prior to the last day for lodging the proposed pretrial order.

(d) Duty of Parties Other Than Plaintiff. Each other party must, within 3 days following receipt of plaintiff's proposed order, take the following action:

(1) Agreement With Form of Proposed Order. If plaintiff's proposed order is satisfactory, attach that party's list of exhibits and witnesses to the order, indicate approval of the proposed order by signature, file it with the clerk in time to be received within the time prescribed in subsection (b)(1) of this rule, and serve all other parties with a completed copy of the order so filed; or

(2) Disagreement With Form of Proposed Order. If plaintiff's proposed order is unsatisfactory:

(A) Immediately meet with or telephone plaintiff in a good faith effort to achieve a joint proposed order; and

(B) If such effort is unsuccessful, prepare a separate proposed order and file it, together with plaintiff's order and a declaration of that party setting forth the efforts made to comply with subsection (d)(2)(A) of this rule. The separate proposed order and declaration must be filed and served in such a manner that they will actually be received by the clerk and the plaintiff all within the time set forth in subsection (b)(1) of this rule.

(e) Non-receipt of Proposed Joint Pretrial Order.

(1) Plaintiff. A plaintiff who has complied with subsection (c) of this rule and does not receive a timely response from the other parties, must file and serve a unilateral pretrial order at least 14 days before the trial or pretrial conference, if one is ordered. At the same time, plaintiff must file and serve a declaration asserting the failure of the other parties to respond.

(2) Other Parties. Any party other than plaintiff who has not received plaintiff's proposed pretrial order within the time limits set forth in subsection (c) of this rule, must prepare, file, and serve at least 14 days prior to the trial or pretrial conference, if one is ordered, a declaration attesting to plaintiff's failure to prepare and serve a proposed pretrial order in a timely manner.

(f) **Sanctions for Failure to Comply with Rule.** In addition to the sanctions authorized by F.R.Civ.P. 16(f), if a status conference statement or a joint proposed pretrial order is not filed within the times set forth in subsections (a) or (e), respectively, of this rule, the court may order one or more of the following:

(1) A continuance of the trial date, if no prejudice is involved to the party who is not at fault;

(2) An award of monetary sanctions including attorneys' fees against the party at fault, payable to the party not at fault; and/or

(3) An award of non-monetary sanctions against the party at fault.

Monetary sanctions will be assessed against the party at fault and/or counsel, in the court's discretion. Non-monetary sanctions may include the entry of a judgment of dismissal or the entry of an order striking the answer and entering a default.

(g) **Failure to Appear at Hearing or Prepare for Trial.** The failure of a party's counsel (or the party, if not represented by counsel) to appear before the court at the status conference or pretrial conference, or to complete the necessary preparations therefor, or to appear at or to be prepared for trial may be considered an abandonment or failure to prosecute or defend diligently, and judgment may be entered against the defaulting party either with respect to a specific issue or as to the entire proceeding, or the proceeding may be dismissed.

LBR 7026-1. DISCOVERY

(a) **General.** Compliance with FRBP 7026 and this rule is required in all adversary proceedings.

(1) Notice. The plaintiff must serve with the summons and complaint a notice that compliance with FRBP 7026 and this rule is required.

(2) Proof of Service. The plaintiff must file a proof of service of this notice together with the proof of service of the summons and complaint.

(b) **Discovery Conference and Disclosures.**

(1) Conference of Parties. Unless all defendants default, the parties must conduct the meeting and exchange the information required by FRBP 7026 within the time limits set forth therein.

(2) Joint Status Report. Within 7 days after such meeting, the parties must prepare a joint status report containing the information set forth in LBR 7016-1(a)(2). The joint status report will serve as the written report of the meeting required by FRBP 7026.

(c) Failure to Make Disclosures or Cooperate in Discovery.

(1) General. Unless excused from complying with this rule by order of the court for good cause shown, a party must seek to resolve any dispute arising under FRBP 7026-7037 or FRBP 2004 in accordance with this rule.

(2) Meeting of Counsel. Prior to the filing of any motion relating to discovery, counsel for the parties must meet in person or by telephone in a good faith effort to resolve a discovery dispute. It is the responsibility of counsel for the moving party to arrange the conference. Unless altered by agreement of the parties or by order of the court for cause shown, counsel for the opposing party must meet with counsel for the moving party within 7 days of service upon counsel of a letter requesting such meeting and specifying the terms of the discovery order to be sought.

(3) Moving Papers. If counsel are unable to resolve the dispute, the party seeking discovery must file and serve a notice of motion together with a written stipulation by the parties.

(A) The stipulation must be contained in 1 document and must identify, separately and with particularity, each disputed issue that remains to be determined at the hearing and the contentions and points and authorities of each party as to each issue.

(B) The stipulation must not simply refer the court to the document containing the discovery request forming the basis of the dispute. For example, if the sufficiency of an answer to an interrogatory is in issue, the stipulation must contain, verbatim, both the interrogatory and the allegedly insufficient answer, followed by each party's contentions, separately stated.

(C) In the absence of such stipulation or a declaration of counsel of noncooperation by the opposing party, the court will not consider the discovery motion.

(4) Cooperation of Counsel; Sanctions. The failure of any counsel either to cooperate in this procedure, to attend the meeting of counsel, or to provide the moving party the information necessary to prepare the stipulation required by this rule within 7 days of the meeting of counsel will result in the imposition of sanctions, including the sanctions authorized by FRBP 7037 and LBR 9011-3.

(5) Contempt. LBR 9020-1 governing contempt proceedings applies to a discovery motion to compel a non-party to comply with a deposition subpoena for testimony and/or documents under FRBP 7030 and 7034.

LBR 7026-2. DISCOVERY DOCUMENTS – RETENTION, FILING, AND COPIES

(a) Retention by Propounding Party. The following discovery documents and proof of service thereof must not be filed with the clerk until there is a proceeding in which the

document or proof of service is in issue:

(1) Transcripts of depositions upon oral examination;
(2) Transcripts of depositions upon written questions;
(3) Interrogatories;
(4) Answers or objections to interrogatories;
(5) Requests for the production of documents or to inspect tangible things;
(6) Responses or objections to requests for the production of documents or to inspect tangible things;
(7) Requests for admission;
(8) Responses or objections to requests for admission;
(9) Notices of Deposition, unless filing is required in order to obtain issuance of a subpoena in another district; and
(10) Subpoena or Subpoena Duces Tecum.

(b) Period of Retention for Discovery Documents. Discovery documents must be held by the attorney for the propounding party pending use pursuant to this rule for the period specified in LBR 9070-1(b) for the retention of exhibits, unless otherwise ordered by the court.

(c) Filing of Discovery Documents.

(1) When required in a proceeding, only that part of the document that is in issue must be filed with the court.

(2) When filed, discovery documents must be submitted with a notice of filing that identifies the date, time, and place of the hearing or trial in which it is to be offered.

(3) Original deposition transcripts are treated as trial exhibits and must be delivered to the judge for use at the hearing or trial. The original deposition transcript and a copy must be lodged with the clerk pursuant to LBR 7030-1(b).

(d) Copies of Discovery Documents.

(1) Unless an applicable protective order otherwise provides, any entity may obtain a copy of any discovery document described in subsection (a) of this rule by making a written request therefor to the clerk and paying duplication costs.

(2) The clerk will give notice of the request to all parties in the case or proceeding, and the party holding the original of the requested discovery document must lodge the original or an authenticated copy with the clerk within 14 days after service of the clerk's notice.

(3) Promptly after duplication, the clerk will return the original to the party who provided it.

LBR 7026-3. INTERROGATORIES AND REQUESTS FOR ADMISSION

(a) Form.

(1) Interrogatories and requests for admission must comply with the form requirements of LBR 9004-1.

(2) Interrogatories and requests for admissions must be numbered sequentially without repeating the numbers used on any prior set of interrogatories or requests for admission propounded by that party.

(b) Number of Interrogatories Permitted. A party must not, without leave of the court and for good cause shown, serve more than 25 interrogatories on any other party. Each subdivision of an interrogatory is considered a separate interrogatory. A motion for leave to serve additional interrogatories may be made pursuant to LBR 9013-1.

(c) Answers and Objections. The party answering or objecting to interrogatories or requests for admission must quote each interrogatory or request in full immediately preceding the statement of any answer or objection thereto.

(d) Retention By Propounding Party. The original of the interrogatories or requests for admission must be held by the attorney propounding the interrogatories or requests pursuant to LBR 7026-2 pending use or further order of the court.

LBR 7030-1. DEPOSITIONS

(a) Custody of Original Transcript.

(1) The original transcript of a deposition must be sent to the attorney noticing the deposition after signing and correction or waiver of the same unless otherwise stipulated to on the record at the deposition.

(2) It is the duty of the attorney noticing the deposition to obtain from the reporter the original transcript thereof in a sealed envelope and to safely retain the same under conditions suitable to protect it from tampering, loss, or destruction.

(3) Upon request of any party intending to offer deposition evidence at a contested hearing or trial, a copy of the transcript must be sent to that party for marking in compliance with subsection (b) of this rule.

(b) Use of Deposition Evidence in Contested Hearing or Trial. Unless otherwise ordered by the court, each party intending to offer any evidence by way of deposition testimony pursuant to F.R.Civ.P. 32 and F.R.Evid. 803 or 804 must:

(1) Lodge the original deposition transcript and a copy pursuant to this rule with the clerk at least 7 days before the hearing or trial at which it is to be offered;

(2) Identify on the copy of the transcript the testimony the party intends to offer by bracketing in the margins the questions and answers that the party intends to offer

at trial. The opposing party must likewise countermark any testimony that it plans to offer. The parties must agree between themselves on a separate color to be used by each party which must be used consistently by that party for all depositions marked in the case;

(3) Mark objections to the proffered evidence of the other party in the margins of the deposition by briefly stating the ground for the objection; and

(4) Serve and file notice of the portions of the deposition marked or countermarked by stating the pages and lines so marked, objections made, and the grounds indicated therefor. The notice must be served and filed within 7 days after the party has marked, countermarked, or objects to the deposition evidence.

(c) **Deposition Summary.** In appropriate cases and when ordered by the court, the parties may jointly prepare a deposition summary to be used in lieu of question and answer reading of a deposition at trial.

LBR 7041-1. DISMISSAL OF ADVERSARY PROCEEDING

(a) **Dismissal for Want of Prosecution.** A proceeding that has been pending for an unreasonable period of time without any action having been taken therein may be dismissed for want of prosecution upon notice and opportunity to request a hearing.

(b) **Dismissal for Failure to Appear.** If a party fails to appear at the noticed hearing of a motion or trial of the proceeding, the court may make such orders in regard to the failure as are just, including dismissal of the matter for want of prosecution. Unless the court provides otherwise, any dismissal pursuant to this rule is without prejudice.

(c) **Reinstatement – Sanctions.** If any proceeding dismissed pursuant to this rule is reinstated, the court may impose such sanctions as it deems just and reasonable.

(d) **Notice of Dismissal.** The clerk will provide to all parties to the proceeding notice of entry of any order dismissing a proceeding under this rule.

LBR 7052-1. FINDINGS OF FACT AND CONCLUSIONS OF LAW

(a) **Preparation and Lodging.** In all cases where written findings of fact and conclusions of law are required, the prevailing party must within 7 days of the date of the hearing at which oral findings and conclusions were rendered, lodge electronically via LOU proposed findings of fact and conclusions of law, unless otherwise ordered by the court.

(b) **Findings of Fact.** The proposed findings of fact must:

(1) Be in separately numbered paragraphs;

(2) Be in chronological order; and

(3) Not make reference to allegations contained in the pleadings.

(c) **Conclusions of Law.** The proposed conclusions of law must follow the findings of fact, and:

(1) Must be in separately numbered paragraphs; and

(2) May include brief citations of appropriate authority.

LBR 7054-1. TAXATION OF COSTS AND AWARD OF ATTORNEYS' FEES

(a) **Who May Be Awarded Costs.** When costs are allowed by the FRBP or other applicable law, the court may award costs to the prevailing party. No costs will be allowed unless a party qualifies as, or is determined by the court to be, the prevailing party under this rule. Counsel are advised to review 28 U.S.C. § 1927 regarding counsel's liability for excessive costs.

(b) **Prevailing Party.** For purposes of this rule, the prevailing party is defined as follows:

(1) Recovery on Complaint. The plaintiff is the prevailing party when it recovers on the entire complaint.

(2) Dismissal or Judgment in Favor of Defendant. The defendant is the prevailing party when the proceeding is terminated by court-ordered dismissal or judgment in favor of defendant on the entire complaint.

(3) Partial Recovery. Upon request of one or more of the parties, the court will determine the prevailing party when there is a partial recovery or a recovery by more than one party.

(4) Voluntary Dismissal. Upon request of one or more of the parties, the court will determine the prevailing party when the proceeding is voluntarily dismissed or otherwise voluntarily terminated.

(5) Offer of Judgment. If a party defending against a claim files under seal a written offer of judgment before trial and the judgment finally obtained by the offeree is not more favorable than the offer, the party offering the judgment is the prevailing party.

(c) **Bill of Costs.** The prevailing party who is awarded costs must file and serve a bill of costs not later than 30 days after entry of judgment. Each item claimed must be set forth separately in the bill of costs. The prevailing party, or the party's attorney or agent having knowledge of the facts must file a declaration with the bill of costs certifying that:

(1) The items claimed as costs are correct;

(2) The costs were necessarily incurred in the case;

(3) The services for which fees have been charged were actually and necessarily performed; and

(4) The costs were paid or the obligation for payment was incurred.

(d) **Items Taxable as Costs.** A list of the items taxable as costs is contained in the Court Manual available from the clerk and on the court's website.

(e) **Objection to Bill of Costs.** Not later than 7 days after service of a copy of a bill of costs, a party dissatisfied with the costs claimed may file and serve an objection to taxation of the costs sought. The grounds for objection must be stated specifically. The court may resolve the matter without a hearing or set the matter for hearing.

(f) **Entry of Costs.** If a timely objection to a bill of costs is not filed or, in the event of a timely objection, as soon as practicable after an order determining the objection becomes final, the clerk will insert the amount of costs awarded to the prevailing party into the blank left in the judgment for that purpose and enter a similar notation on the docket sheet.

(g) **Motion for Attorneys' Fees.**

(1) If not previously determined at trial or other hearing, a party seeking an award of attorneys' fees where such fees may be awarded must file and serve a motion not later than 30 days after the entry of judgment or other final order, unless otherwise ordered by the court.

(2) The requirements of LBR 9013-1 through LBR 9013-4 apply to a motion for attorneys' fees under this rule.

(h) **Execution.** Upon request, the clerk will issue a writ of execution to recover costs and attorneys' fees included in the judgment:

(1) Upon presentation of a certified copy of the final judgment in the bankruptcy court or in the district court; or

(2) Upon presentation of a mandate of the district court, bankruptcy appellate panel, or court of appeals to recover costs taxed by the appellate court.

LBR 7055-1. DEFAULT

(a) **Entry of Default.** A request for the clerk to enter default must be supported by a declaration establishing the elements required by F.R.Civ.P. 55(a), as incorporated into FRBP 7055, and a proof of service on the defaulting party.

(b) **Motion for Default Judgment.**

(1) Form of Motion. A motion for default judgment must state:

(A) The identity of the party against whom default was entered and the date of entry of default;

(B) Whether the defaulting party is an infant or incompetent person and, if so,

whether that person is represented by a general guardian, committee, conservator, or other representative;

(C) Whether the individual defendant in default is currently on active duty in the armed forces of the United States, based upon an appropriate declaration in compliance with the Servicemembers Civil Relief Act (Pub. L. 108-189) (50 U.S. Code App. §§ 501-594). When the individual defendant is the debtor, the party seeking the default may rely upon the debtor's sworn statements contained in a statement of financial affairs, by following the appropriate procedure for requesting judicial notice of that document pursuant to F.R.Evid. 201; and

(D) That notice of the motion has been served on the defaulting party, if required by F.R.Civ.P. 55(b)(2).

(2) Evidence of Amount of Damages. Unless otherwise ordered, if the amount claimed in a motion for judgment by default is unliquidated, the movant must submit evidence of the amount of damages by declarations in lieu of live testimony. Notice must be given to the defaulting party of the amount requested. Any opposition to the amount of damages by the party against whom the judgment is sought must be in writing and supported by competent evidence.

(3) Other Relief. Other proceedings necessary or appropriate to the entry of a judgment by default may be taken as provided in F.R.Civ.P. 55(b)(2).

(4) Attorneys' Fees.

(A) When a promissory note, contract, or applicable statute provides a basis for the recovery of attorneys' fees, a reasonable attorneys' fee may be allowed in a default judgment. Subject to subsection (b)(4)(B), the reasonableness of the attorneys' fee will be calculated based upon the amount of the judgment, exclusive of costs, according to the following schedule:

Amount of Judgment	Attorneys' Fees Award
$0.01 - $1,000	30% with a minimum of $250
$1,000.01 - $10,000	$300 plus 10% of the amount over $1,000
$10,000.01- $50,000	$1,200 plus 6% of the amount over $10,000
$50,000.01- $100,000	$3,600 plus 4% of the amount over $50,000
Over $100,000	$5,600 plus 2% of the amount over $100,000

(B) An attorney seeking fees in excess of the schedule may request in the motion for default judgment to have a reasonable attorneys' fee fixed by the court. The court will hear the request and render judgment for such fee as the court may deem reasonable.

LBR 7056-1. SUMMARY JUDGMENT

(a) General. The requirements of LBR 9013-1 through LBR 9013-4 apply to a motion for summary judgment, except as provided by this rule.

(b) Motion and Supporting Documents.

(1) Motion. A notice of motion and motion for summary judgment or partial summary adjudication pursuant to FRBP 7056 must be served and filed not later than 42 days before the date of the hearing on the motion.

(2) Statement of Uncontroverted Facts and Conclusions of Law and Proposed Summary Judgment.

(A) The movant must serve, file, and lodge with the motion for summary judgment or partial summary adjudication a proposed statement of uncontroverted facts and conclusions of law and a separate proposed summary judgment.

(B) Unless otherwise ordered by the court, the proposed statement of uncontroverted facts and conclusions of law must be lodged electronically via LOU. The statement must identify each of the specific material facts relied upon in support of the motion and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish each such fact.

(3) Evidence. The movant is responsible for filing with the court all evidentiary documents cited in the moving papers in accordance with LBR 9013-1(i).

(c) Response and Supporting Documents.

(1) Response. Any party who opposes the motion must serve and file a response not later than 21 days before the date of the hearing on the motion.

(2) Statement of Genuine Issues.

(A) The respondent must serve, file, and lodge a separate concise statement of genuine issues with the response.

(B) Unless otherwise ordered by the court, the respondent's statement of genuine issues must be lodged electronically via LOU. The respondent's statement must identify each material fact that is disputed and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish the dispute and the existence of a genuine issue precluding summary judgment or adjudication.

(3) Evidence. The respondent is responsible for filing with the court all necessary evidentiary documents cited in the responding papers in accordance with LBR 9013-1(i).

(4) Need for Discovery. If a need for discovery is asserted as a basis for denial of the motion, the respondent must identify the specific facts or issues on which discovery is necessary and justify the request for additional time to pursue such discovery.

(d) Reply. Movant must serve and file any reply not later than 14 days before the hearing on the motion.

(e) Stipulated Facts. The parties may file a stipulation setting forth a statement of stipulated undisputed facts. The parties so stipulating may state that their stipulations are entered into solely for purposes of the motion for summary judgment and are not intended to be binding otherwise.

(f) Facts Deemed Admitted. In determining any motion for summary judgment or partial summary adjudication, the court may assume that the material facts as claimed and adequately supported by the movant are admitted to exist without controversy, except to the extent that such facts are:

(1) Included in the "statement of genuine issues," and

(2) Adequately controverted by declaration or other evidence filed in opposition to the motion.

LBR 7064-1. SEIZURE OF PERSONS AND PROPERTY

(a) Issuance of Writ. A writ or other process issued for the seizure of persons or property pursuant to F.R.Civ.P. 64, 69, or 70 must be issued, attested, signed, and sealed as required for writs issued out of this court.

(b) Writ or Other Process of Seizure. A writ or other process for seizure in a civil action must be directed to, executed, and returned by the United States Marshal, a state or local law enforcement officer authorized by state law, or a private person specially appointed by the court for that purpose pursuant to an application and order.

(c) Process Requiring Entry Upon Premises.

(1) An order of court requiring entry upon private premises without notice must be executed by the United States Marshal, a state or local law enforcement officer authorized by state law, or a private person specially appointed by the court for that purpose pursuant to an application and order.

(2) If a writ or other process is to be executed by a private person, the private person must be accompanied by a United States Marshal or a state or local law enforcement officer present at the premises during the execution of the order.

(d) **Eviction.** Any eviction to be made pursuant to a writ of possession issued by the court pursuant to 11 U.S.C. § 365(d)(4) must be effected by a state or local law enforcement officer authorized by state law to execute such writs issued under state law, unless otherwise ordered by the court.

LBR 7065-1. INJUNCTIONS

(a) **Adversary Proceeding Required.** A temporary restraining order or preliminary injunction may be sought as a provisional remedy only in a pending adversary proceeding, not in the bankruptcy case itself. An adversary complaint must be filed either prior to, or contemporaneously with, a request for issuance of a temporary restraining order ("TRO") or preliminary injunction.

(b) **Temporary Restraining Orders and Preliminary Injunctions.**

(1) When a TRO is not requested, a preliminary injunction must be sought by noticed motion and not by order to show cause.

(2) When a TRO is requested, a preliminary injunction must be sought by order to show cause.

(3) If the TRO is granted without notice, the hearing on the order to show cause must be set with 14 days after the entry of the TRO unless otherwise agreed by the parties.

(4) If the TRO is denied or granted after reasonable notice, the court may set the hearing on the order to show cause re preliminary injunction without regard to the notice of motion requirements set forth in LBR 9013-1(d)(2).

(c) **Approval of Bonds, Undertakings, and Stipulations Regarding Security.** A bond, undertaking, or stipulation regarding security given in conjunction with the issuance of a TRO or preliminary injunction must satisfy the requirements of FRBP 7065(c) and LBR 2010-1.

LBR 7067-1. REGISTRY FUND

(a) **Deposit of Registry Funds.**

(1) General. Funds must not be sent to the court or the clerk for deposit into the court's registry without a court order.

(2) Form of Order. A party seeking authorization to deposit funds into the court's registry must prepare an order that meets the requirements of LBR 9004-1 and states (A) the exact amount to be deposited; (B) that the funds are to be deposited into an interest bearing account; and (C) that the funds will remain on deposit until further order of the court. The order must also contain the following provision:

"IT IS ORDERED that the clerk is directed to deduct from the income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of

the United States and set by the Director of the Administrative Office, whenever such income becomes available for deduction in the investment so held and without further order of the court."

(3) Tender of Funds. The funds must be submitted to the clerk by check or money order made payable to "U. S. Bankruptcy Court" in the exact amount specified in the court order.

(b) Notice to Clerk.

(1) Whenever the court orders that money deposited into court must be deposited by the clerk in an interest bearing account, the party seeking the order must forthwith personally serve a copy of such order upon the clerk or chief deputy clerk along with the deposit.

(2) The failure of the party seeking an order of deposit to an interest bearing account to serve the clerk or chief deputy with a copy of the order releases the clerk from liability for loss of interest upon the money subject to the order of deposit.

(c) Authorized Depositories. Unless otherwise ordered by the court, the clerk must deposit money pursuant to an order of deposit in any institution that the United States trustee has authorized for deposit of funds administered by debtors in possession or appointed trustees, subject to the same terms and conditions as for such funds. The clerk may also invest such money in United States Treasury bills.

(d) Timing of Deposit. The clerk must deposit the money pursuant to an order of deposit as soon as practicable following service of a copy of the order by the party authorized to deposit funds.

(e) Fees Charged on Registry Funds. All funds deposited on or after December 1, 1990 and invested as registry funds will be assessed a charge of 10% of the income earned. Fees may be deducted periodically without further order and will be subject to any subsequent exceptions or adjustments by directive of the Administrative Office of the United States Courts.

(f) Disbursements of Registry Funds.

(1) General. The clerk will disburse funds on deposit in the registry of the court only pursuant to a court order.

(2) Form of Order. The disbursement order must contain a provision relieving the clerk from liability for loss of interest, if any, for early withdrawal of the funds. The order must state the name and taxpayer identification number for each party who is to receive funds and the amount or percentage of the principal each is to receive. The order must also state the percentage of the interest each party is to receive. Funds will be disbursed only after the time for appeal of any related judgment or order has expired, or upon approval by the court of a written stipulation by all parties.

LBR 7069-1. ENFORCEMENT OF JUDGMENT AND PROVISIONAL REMEDIES

(a) **Use of United States Marshal is Discouraged**. The court encourages the use of state remedies and officers wherever appropriate to enforce judgments or obtain available remedies. The United States Marshals Service is available to enforce federal judgments as necessary.

(b) **Forms.**

(1) Unless the court has adopted its own form, the applicable form approved by the Judicial Council of California for use in California courts must be used in this court whenever a provisional remedy is sought or a judgment is enforced in accordance with state law as provided in FRBP 7064 and 7069.

(2) The caption must be revised to specify "United States Bankruptcy Court for the Central District of California," rather than the California courts, and the form must be modified, as necessary, to meet the requirements of LBR 9004-1 and LBR 9009-1.

LBR 7069-2. DISCOVERY IN AID OF ENFORCEMENT OF JUDGMENT

(a) **Discovery Permitted.** With respect to a judgment of the bankruptcy court and as allowed by FRBP 7069, except to the extent that a federal statute applies, a judgment creditor may obtain discovery from any person to aid in enforcing a judgment in the manner provided by F.R.Civ.P. 26-37 or in the manner provided by state law.

(b) **Rule 2004 Examination Not Permitted.** A judgment creditor may not use FRBP 2004 to collect information to use to enforce a judgment.